IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 31170 of 1998

Between:

C.Dharma rao, S/o. Kotaiah,
R/o. 8-2-123, Pratap Nagar,
Panjagutta, Hyderabad.

..... PETITIONER

AND

1 The Presiding Officer , Labour Court-I,
Chandra Vihar Complex, M.J.Road,
Hyderabad.
2 The Depot Manager, A.P.S.R.T.C,
Mehdipatnam Bus depot.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to call for the records from the 1st respondent and issue appropriate writ, Order or direction particularly one in the nature of "Certiorari" and quash the award in so far not granting other service benefits passed in I.D.No.79/95, dt.30.8.1996 published on 28.11.96 and declare the same as arbitrary, illegal, unjust, contrary to law, contrary to the regulations, violation of Article 14, 16 and 21 of the Constitution of India and grant the relief of continuity of service, back-wages, attendant benefits and other service benefits.

Counsel for the Petitioner:MR.P.SRIDHAR RAO

For Respondent No1: GP FOR Labour

Counsel for Respondent No.2: Mr.V.T.M.Prasad.

The Court made the following :

ORDER:

This writ petition is directed against an award passed by the Labour Court-I, Hyderabad in I.D.No.79 of 1995 dated 30th August, 1996 in so far as denying the continuity of service, back-wages and attendant benefits.

According to the petitioner, he was appointed as a Conductor into the service of the APSRTC with effect from 20th February, 1994. While so, on 20-10-1993 when he was conducting the bus on the route No.63-K (Urban Service), a check was exercised by the officials at stage No.1 i.e., Guljara House and found certain cash and ticket irregularities and issued a charge sheet enumerating the following charges.

1. " For having failed to observe TIC which constitutes mis-conduct under Reg.No.28 (XXXII) of APSRTC Employee (conduct) Regulations, 1963.
2. " For having failed to collect fare and issue tickets to 8 individual passengers found alighting without tickets at Charminar and travelled from Madina ex-stages 2/1 to 1, which constitutes mis-conduct under Reg.No.28(VI-a) of APSRTC Employees S(Conduct)Reg.1963".
3. " For having failed to close against stage No.1 particular digit of Rs.0.75 ps., which constitutes mis-conduct under Reg.No.28 (XXXII) of APSRTC Employees (Conduct) Reg. 1963".

After conducting a detailed enquiry into the matter duly following the procedure as prescribed under the Regulations of the APSRTC and adhering to the principles of natural justice, the disciplinary authority passed a final order on 23-2-1994 removing the petitioner from the service of the Corporation. Aggrieved by the same, the petitioner had filed an appeal and the same was also dismissed on 30-6-1994. Further he had filed a review petition before the higher authorities, but the same was also dismissed on 15-2-1995. Consequently, he raised a dispute under Section 2–A (2) of Industrial Disputes Act before the Labour Court- I, Hyderabad. The Labour Court found that, in nutshell, the charge was one of not collecting fare and not issuing tickets. After considering the spot explanation of the petitioner, the Labour Court having felt that this is a case where some relief should be granted to the petitioner and the punishment of removal from service was disproportionate to the charge levelled against him, set aside the order of removal from the service dated 23-2-1994 and directed the appointment of the petitioner afresh for all purposes except for pensionary benefits, but without continuity of services, back wages and other attendant benefits. Aggrieved by the same, the present writ petition is filed.

I have gone through the Award passed by the Labour Court. The respondent-Management has not asserted before the Labour Court as to the past conduct of the workman. The substance of the charge is only with regard to non-collection of fares and non-issuance of the tickets. Further it is curious to note that the passengers from whom no fares were collected and no tickets were issued, were traveling from ex-stages 2/1 to 1. As per the operational manual of the APSRTC, in a City Service, the Conductor is permitted to issue tickets within two fare stages. In the instant case, a check was exercised at stage No.1 and the said passengers boarded the bus at stage No.2/1. Therefore, it cannot be said that there was any intention on the part of the petitioner to defraud the revenue of the Corporation.

The Labour Court, while considering the spot explanation of the petitioner and appreciating the whole issue, has adopted a conservative method of denying continuity of service, back wages and other attendant benefits. In the facts and circumstances of the case, I am of the considered opinion that the charge is very trivial in nature and even according to the operational manual of the APSRTC, this is not a case of misconduct at all and, therefore, the denial of continuity of service

would result in injustice to the petitioner. Therefore, the award passed by the Labour Court is liable to be modified as follows:

The workman (petitioner) is entitled to reinstatement into service and continuity of service, but without any back wages or attendant benefits including increments.

The writ petition is accordingly allowed to the extent indicated above. No order as to costs.

11.10.2004

Stp.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the eleventh day of October, Two Thousand and four.

ASISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer , Labour Court-I,
Chandra Vihar Complex, M.J.Road,
Hyderabad.
2 The Depot Manager, A.P.S.R.T.C,

Mehdipatnam Bus depot.

3 2CCs to GP for Revenue, High Court of A.P., Hyderabad (OUT).

4. 2CD copies

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.No.31170 of 1998

11.10.2004